



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0042; Notice 1]

Continental Tire the Americas, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Continental Tire the Americas, LLC (“CTA”), has determined that certain Altimax RT 43 replacement passenger car tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. CTA filed an original noncompliance report dated April 20, 2021, and subsequently petitioned NHTSA on May 13, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of CTA’s petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, Office of Vehicle Safety Compliance, NHTSA, (325) 655-0547, Jayton.Lindley@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Overview:

CTA has determined that certain Altimax RT43 replacement passenger car tires do not fully comply with the requirements of paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). CTA filed a noncompliance report dated April 20, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. CTA subsequently petitioned NHTSA on May 13, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of CTA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved:

Approximately three (3) Altimax RT43 replacement passenger car tires, size 175/65R14 82T, manufactured between March 8, 2020, and March 14, 2020, are potentially involved.

III. Noncompliance:

CTA explains that the noncompliance is due to a mold error in which the subject tires contain a tire identification number (TIN) that omits the 3-digit plant code and the 6-symbol manufacturer's identification mark as required by paragraph S5.5.1(b) of FMVSS No. 139 and paragraph 574.5(b). Specifically, the subject tires should have been labeled "DOT 036 0F934V 1020" on the outboard sidewall and "DOT 036 0F934V" on the inboard sidewall but were instead labeled "DOT 1020" on the outboard sidewall and "DOT" on the inboard sidewall.

IV. Rule Requirements:

Paragraph S5.5.1(b) of FMVSS No. 139 includes the requirements relevant to this petition.

- For tires manufactured on or after September 1, 2009, each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire.
- Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other sidewall.

V. Summary of CTA's Petition:

The following views and arguments presented in this section, "V. Summary of CTA's Petition," are the views and arguments provided by CTA. They have not been evaluated by the Agency and do not reflect the views of the Agency. CTA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, CTA submitted the following reasoning:

CTA says that in most instances, it "tests its tires to standards which exceed the FMVSS minimums." CTA asserts that "the subject tires contain all the necessary sidewall markings to show compliance with FMVSS testing" and that other than the incorrect TIN marking, the tires "meet or exceed" FMVSS No. 139 performance and labeling requirements.

According to CTA, the serial sidewall of the subject tires displays the correct DOT production week and year and when combined with other markings available on the tire, they can be uniquely identified.

CTA cites the following previous inconsequentiality petitions to support its argument:

- a. Michelin North America, Inc., 85 FR 37495 (June 22, 2020).
- b. Cooper Tire & Rubber Company, 82 FR 52966 (November 15, 2017).
- c. Cooper Tire & Rubber Company, 82 FR 17510 (April 11, 2017).

CTA states that it is not aware of any tire failures related to performance that resulted in an accident, injury, property damage, customer complaint, or any field reports associated with the mislabeling.

CTA says that they have quarantined its current inventory of the noncompliant tires leaving three tires remaining in the market.

CTA concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that CTA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after CTA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.